the deceased did not know the contents of the will he signed, and therefore it was not his will; (*d*) that the will was not properly executed.

As to the issues of fact, the Court finds the following to be the facts in the case:—

(1.) That Wi Matua was a chief residing with his people at Porangahau. That as he had no issue the question of who was to succeed to his estate disturbed the mind of Wi Matua and his people for a considerable time.

(2.) The Maori ideas pervaded the minds of Wi Matua and his people, that is the Maori *ohaki* custom of the disposal of his property before his death by arrangement with his people.

(3.) *Ohaki* being dispensed with by statute Wi Matua and his people were holding meetings to decide how the property was to be disposed of, and a committee had been formed to effectuate this and to embody the same in a will by Wi Matua.

(4.) While this was in progress Mr. Reardon arrived at Porangahau; he had previously known Wi Matua. Wi Matua had been a very heavy drinker of alcohol all his life, and he had taken shortly before this a second wife—Kino—who was a heavier drinker still. Kino was from an alien tribe, and had no right to any of these lands. The witnesses on Kino's side of the case briefly describe her as a person who could drink spirits by the bucketful.

(5.) Mr. Reardon says that Wi Matua was neglected and not kept cleanly, and he took pity on Wi Matua and did acts of kindness for him, and Wi Matua acquired a liking for him. Mr. Reardon suggested that Wi Matua should see a tohunga, and so Wi Matua was taken away from his own people to Waitotara.

(6.) While at Waitotara away from his own people Wi made the will (the subject of this case) under the following circumstances: Mr. Reardon engaged Mr. Holdship, the solicitor, to make Wi's will, and instructed Mr. Holdship to engage Mr. Jones, an interpreter, to assist. Wi did not send for a solicitor nor was he consulted about a solicitor, but the solicitor and interpreter were engaged by Mr. Reardon.

(7.) The interpreter (Mr. Jones) and Mr. Reardon went to Wi and took the instructions for drawing up the will, Wi thus having no independent advice and being away amongst strangers and ill.

(8.) The will was drawn up in English, which language Wi did not understand, and was signed by Wi and witnessed by Holdship and Jones. Holdship did not understand Maori. Mr. Reardon being present during the execution.

(9.) It is contended that Wi did not understand what he signed, that there was undue influence used by Mr. Reardon, and that Mr. Reardon maintained that undue influence by being present while the instructions were being given for the will and while it was being executed.

(10.) There were present at the execution of the will the following persons: Wi Matua (the deceased), Mr. Reardon (the chief beneficiary), Kino (another beneficiary), Mr. Holdship, the solicitor, and Mr. Jones, the interpreter (Mr. Reardon's agents), and Kahukaka. Mr. Jones and Wi Matua died before the trial, and the rest gave evidence at the hearing.

(11.) After the execution of the will Wi, being ill, wanted to get back to Porangahau to his own people. He had disinherited his own people from the principal part of his own property and bequeathed it principally to Mr. Reardon and Kino. Wi Matua had not the money to go back, though he received while away from his own people £168 19s. 7d. during his eight months' absence. Almost the whole of this money was disbursed by Mr. Reardon for Wi Matua in paying debts contracted during this eight months at Waitotara. Wi wired one of his relations—Temuera—who was away at Wairoa, to come and take him back to his people, but Temuera was at a Court at Wairoa and could not take him home, and so Wi died at Waitotara. If Wi had received this money into his own hands he need not have wanted funds to take him home, and some of his heavy expenses could have awaited future settlement.

To prove Mr. Reardon's case evidence was adduced as follows:—

(*a*.) The will was produced signed in Wi's own handwriting and witnessed by two witnesses.

(*b*.) Evidence was called to Wi's declarations before the will was made that he could not leave Reardon out of his will on account of what Reardon had done for him.

(*c*.) Evidence was called of declarations by Wi subsequent to the will that he had put Reardon in his will.

This evidence, under the heading of (*a*), (*b*), and (*c*), is separately treated herein as follows:—

(*a*.) When the will was signed the only disinterested witness present was Kahukaka. We do not treat Mr. Reardon's solicitor and interpreter as independent witnesses; we treat Kino (a large beneficiary) as an interested witness. Kahukaka, a disinterested witness, drinks to excess, but it does not follow from this that he is not truthful; however, his evidence given before Judge Butler differs in material points from his evidence given before us. Kahukaka says that Wi Matua knew what he was signing when he made his will, and he was of clear and free mind in what he did.

(*b*) and (*c*). Turua, Wi Ngapaki, and Te Waaka, three other witnesses, were called, and deposed to Wi Matua's statements before and after the will was made—namely, that "he intended to put the pakeha (Reardon) and Kino in the will" and that "he had put the pakeha and Kino in the will." On this the Court is asked to decide that Wi Matua therefore knew the contents of the will, which was in English, and that it gave effect to his wishes.

A great many cases were quoted by the counsel on each side, but there is a later case which was not quoted, which is very similar to the present case—*i.e.*, Tyrrell *v.* Painton (1894, Probate Division 157)—in which Mrs. Bye, an old lady, made her will on the 7th November, 1892, in favour of her cousin, and two days later one Thomas Painton wrote out her will in favour of his father, and got her to sign it before himself and a friend of his (Peter Rowland). Both these deposed that she knew perfectly well what was in the will and she requested that it be made. The case resembles the present case of Wi Matua in very many respects. The Judge of the Probate Court granted probate of the will to Painton. The full Court of Appeal reversed the judgment, and decided that the evidence adduced was not sufficient to remove the suspicion cast upon a will obtained under such circumstances.